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**FILED**

**04 MAY 10 PM 3:05**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA**

**U.S. DISTRICT COURT  
N.D. OF ALABAMA**

**UNITED STATES OF AMERICA,**

**v.**

**RICHARD M. SCRUSHY,**

**Defendant.**

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**CR-03-BE-0530-S**

**DEFENDANT'S REPLY TO THE GOVERNMENT'S RESPONSE TO HIS  
MOTION TO MODIFY CONDITIONS OF RELEASE**

Defendant Richard M. Scrushy respectfully submits this Reply to the  
Government's Response to His Motion to Modify Conditions of Release:

There may never have been a less thoughtful government pleading than the knee-jerk and totally made up argument in the one-page response the U.S. Attorney filed to Mr. Scrushy's modest request to modify conditions of release. So devoid of any real merit is the government's position opposing Mr. Scrushy's request that they baldly state that incentive to flee "increases as trial nears" making Mr. Scrushy more of a flight risk next week or next month or three months from now than he was six months ago when he was first indicted or a year ago when he learned he was a target. This is just nonsense. They cite no study, no case, no article, and no statistics for their ridiculous proposition. As it turns out, if resort to anecdotal general experience is relevant, in white collar cases,

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the closer a defendant gets to trial the more likely it is that he or she has no intention of fleeing and every intention to stay to clear his or her name.

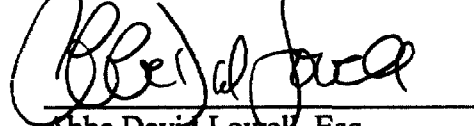
The second point the U.S. Attorney makes -- that the judgment against Mr. Scrushy in Delaware has some effect on his risk of flight -- is equally flimsy and desperate. To begin with, if the possibility of civil judgments was a real grounds to impose conditions of release, no CEO would be allowed out of his or her house in these times of corporate civil and criminal parallel proceedings. Furthermore, the government simply ignores that the judgment has been entered for months and months and Mr. Scrushy has stayed despite having opportunities to fly on private planes and escape if that were his intention. The U.S. Attorney also ignores that the civil cases pending against Mr. Scrushy are either stayed or being supervised by courts so as not to interfere with the criminal proceedings. This actually gives Mr. Scrushy *more* incentive to stay and prove that he is innocent, so he can then take on the civil cases and judgments after he is acquitted.

The government's opposition is nothing more than a reflexive response where if Mr. Scrushy asks for something, they have to automatically oppose it to show they are being "tough" on alleged corporate wrongdoers in general and tough on Mr. Scrushy specifically. The government should be embarrassed by its baseless response because the real record here clearly demonstrates that Mr. Scrushy is no flight risk at all and should have almost no restrictions.

**CONCLUSION**

Defendant respectfully requests that his Motion to Modify Conditions of Release be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Abbe David Lowell', written over a horizontal line.

Abbe David Lowell, Esq.

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A handwritten signature in black ink, appearing to read 'Arthur W. Leach', written over a horizontal line.

Arthur W. Leach, Esq.

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 10, 2004 a copy of the foregoing Motion to Modify  
Conditions of Release was served by hand delivery to:

Alice Martin, Esquire  
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Northern District of Alabama  
1801 4th Avenue North  
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And by fax to: 202-514-7021, and 205-244-2171, for:

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